

HOME DELIVERY & SHUTTLE CARRIER AGREEMENT

This HOME DELIVERY & SHUTTLE CARRIER AGREEMENT ("Agreement") is effective August 24, 2008 ("Effective Date") between SEARS LOGISTICS SERVICES, INC., a Delaware corporation with its principal place of business at 3333 Beverly Road, Hoffman Estates, IL 60179 ("SLS") and HomeDeliveryLink, Inc. a(n) California limited liability corporation with its principal place of business at 32236 Paseo Adelanto, Suite C, San Juan Capistrano, CA 92675. ("Delivery Company").

**Attachments:**

Exhibit A – Operations and Responsibilities  
Exhibit B – Locations and Rates  
Exhibit C – Claims Handling Procedures  
Exhibit D – Criminal Background Check Matrix

**Background.** SLS provides logistics services and manages home delivery and shuttle service of general retail merchandise ("Merchandise") for Sears, Roebuck and Co. ("Sears"), Kmart Corporation ("Kmart") and others (together with Sears and Kmart, called the "Clients") to their customers ("Customers"). Delivery Company is an experienced and competent home delivery and shuttle contractor, and desires to perform home delivery and shuttle services for SLS under the provisions of this Agreement.

1. **Delivery.** Delivery Company will perform home delivery and shuttle services in accordance with this Agreement and the Exhibits and attachments described below ("Services"), as requested by SLS from time to time.

2. **Term.** This Agreement will begin on the Effective Date and end (a) when terminated by either party, under Section 17, or (b) when the last of all Exhibits in effect terminates ("Term"). Services under each Exhibit will begin and terminate on the dates stated in the Exhibit, unless terminated earlier under another provision of this Agreement. In any event, this Agreement and all Exhibits will terminate automatically and without notice five (5) years after the Effective Date, if not terminated earlier.

3. **Exhibits.** The Exhibits are incorporated into this Agreement. The Exhibits describe the services, rates, charges, and other terms and conditions of Delivery Company's Services. Additional Exhibits may be agreed between SLS and Delivery Company at any time. In the event of a conflict between this Agreement and an Exhibit, the Exhibit will prevail.

4. **No Liens.** Delivery Company does not have, and will not assert any lien, right, or interest in any Merchandise transported under this Agreement.

5. **Delivery Company's Warranties.** Delivery Company warrants and represents as of the Effective Date and at all times during the Term, that:

- a. It will perform the Services in a prompt, safe and workmanlike manner, with due care, and in accordance with the standard of performance exhibited by highly-skilled transportation professionals operating on a nation-wide basis. Delivery Company will hook up all appliances according to manufacturers' instructions, as are distributed from time to time. In the event any manufacturers' instructions conflict with other provisions of this Agreement (such as Exhibit A), or any instructions of SLS, its Clients, or any Customers, the manufacturers' instructions will control, and Delivery Company will promptly advise SLS of the conflict. Delivery Company will take all necessary steps to ensure that the delivery teams used for the Services do not use illegal drugs that would indicate their unsuitability for the Services. Delivery Company and its delivery teams will act a friendly, professional and courteous manner with the Customers of SLS and the Clients at all times.



as all permits and authorizations required to perform the Services and will comply with them and all federal, state and local laws and administrative rules and regulations relating to the Services, including but not limited to operating authority, compensation, employment, insurance, labor relations, environmental protection, safety, record keeping, and non-discrimination in employment. Delivery Company will pay all contributions, taxes and assessments that are required to be paid or withheld for all persons used by Delivery Company to perform the Services. It will, upon execution of this Agreement and thereafter whenever SLS requests, provide complete and accurate copies of all permits and operating authorities required for the lawful performance of the Services, as well as evidence that they are valid and in good standing. It will notify SLS immediately if any of its permits are suspended, terminated (for any reason), withdrawn, modified or transferred. If any such event impairs Delivery Company's ability to provide Services, SLS may terminate this Agreement.

- c. It is fully qualified, staffed and equipped to perform the Services.
- d. Delivery Company agrees that it will conduct background checks, or require its owner-operators to conduct background checks, on all individuals who enter the Customers' residence or premises or have a direct contact with the Customer as part of the Services provided under this Agreement. These individuals include all drivers, assistant drivers, helpers and others who enter a Customer's residence or premises, regardless of whether the individual is an employee, owner-operator or contractor of Delivery Company or an employee or contractor of an owner-operator.
- e. At a minimum, the criminal background check process will consist of the following:
  - 1) Search will be conducted by a qualified background check service provider.
  - 2) Search will include a review of criminal court records of all counties of residence based on the individual's past seven (7) years of residential addresses.
  - 3) Search results will be measured against the criminal record matrix attached as Exhibit D and made a part hereof. An individual who has a record of criminal activity or convictions for any of the offenses listed in the attached criminal record matrix will not be qualified to perform Services under this Agreement.
- f. Delivery Company and its owner-operators, where applicable, are solely responsible for all aspects of the background check process, including providing proper forms, notices and disclosures to affected individuals in accordance with all federal, state and local laws. The results of the criminal background checks will be maintained by Delivery Company for all individuals subject to these background check requirements. Delivery Company agrees that periodic audits of its records may be conducted by SLS, upon reasonable advance notice, to demonstrate its compliance under this Agreement.

**6. Financial Statements.** Within 15 days of the Effective Date, Delivery Company will provide SLS at its notice address complete and accurate copies of any financial statements requested by SLS. SLS may, on reasonable notice, and during normal business hours, review Delivery Company's financial data and information to verify Delivery Company's compliance with this Agreement, or to evaluate Delivery Company's request for a rate increase.

**7. Insurance.** Delivery Company maintains, and will cause all subcontractors performing Services to maintain the following insurance, carried by insurance companies rated "A-/VII" or better by Best's Insurance Reports, that is primary to any insurance carried by SLS.

- a. Coverage. Delivery Company will maintain at least the following coverage.
  - 1) *Workers' Compensation* including coverage for all of Delivery Company's employees in all states where Services are performed, and Employer's Liability insurance with limits of liability of at

least \$100,000 per accident or disease and \$500,000 aggregate by disease. This insurance must contain a waiver of subrogation in favor of SLS and Sears, except where it is not lawful.

- 2) *Commercial General Liability* including but not limited to, premises/operations, contractual, personal and advertising injury, and products/completed operations liabilities, with limits of at least \$3,000,000 per occurrence for bodily injury and property damage combined. Contractual Liability coverage must be specifically endorsed to cover the agreements of Sections 8 and 9, or blanket contractual liability coverage.
  - 3) *Business Automobile Liability* including coverage for all owned, non-owned and hired vehicles with limits of at least \$3,000,000 per occurrence for bodily injury and property damage combined. If no vehicles are owned or leased, Delivery Company's Commercial General Liability insurance may be extended to provide insurance for non-owned and hired motor vehicles instead of maintaining a separate Business Automobile Liability policy.
  - 4) *Employee Dishonesty/Fidelity Insurance (Bond)* providing coverage of at least \$100,000 per claim.
  - 5) *Cargo Legal Liability* covering shipments tendered to Delivery Company with limits of at least \$20,000 per vehicle or conveyance. If SLS requires greater limits for a particular shipment, it will notify Delivery Company's corporate office in writing 24 hours before the shipment, and Delivery Company will advise SLS of its increase in premium for the shipment, if any. Delivery Company will obtain the increased coverage if commercially available, and SLS will pay any increase in premium attributed to SLS conveyance for requested coverage over \$150,000; Delivery Company will pay any increase for coverage up to \$150,000.
  - 6) *Warehousemen's Legal Liability Insurance* covering Merchandise and other cargo in the care, custody or control of Delivery Company or a subcontractor, in an amount of the maximum value, at any one time, of such property.
- b. Evidence of Coverage. Before Delivery Company performs Services, it will submit to SLS a certificate of insurance or other reasonable evidence of insurance coverage, showing compliance with this Section 7 and describing all endorsements that restrict coverage. If SLS advises Delivery Company that its policies or bonds are inadequate, Delivery Company will obtain additional or broader insurance or bond as SLS reasonably requests. If Delivery Company fails to do so, SLS may terminate this Agreement. SLS approval of any insurance policies does not relieve Delivery Company of any responsibility under this Agreement, including but not limited to, claims in excess of the limits stated in this Section 7. SLS failure to demand or receive a certificate or other evidence of coverage meeting the requirements of this Agreement is not a waiver of the insurance requirements in this Agreement. Except for Worker's Compensation and Employer's Liability, Delivery Company shall obtain an additional insured endorsement naming Sears Holdings Corporation and its affiliates and subsidiaries as an additional insured under Delivery Company's General Liability insurance policies that provides as follows: Who Is An Insured is amended to include any person(s) or organization(s) ("Additional Insured") shown in the Schedule and/or with whom you agree in a written contract to name as an insured or additional insured, with respect to liability arising out of work performed by you or on your behalf on the project(s) specified in said contract, including acts or omissions of the Additional Insured in connection with the project(s) specified in said contract. Delivery Company shall ensure that the foregoing additional insured endorsement provision is quoted verbatim in all certificates of insurance and / or other proof of insurance.
- c. Subcontractors' Insurance. Delivery Company will cause all subcontractors to maintain the same insurance as described above, including but not limited to the additional insured requirements.

- d. Form of Policies. Delivery Company's insurance must provide that neither SLS nor its Customers are liable for premiums and that no policy may be canceled or materially changed without 60 days prior written notice to SLS and Sears and the reasons therefor. SLS may terminate this Agreement immediately if it receives such a notice. The minimum limits of liability under any coverage may be satisfied by a combination of primary and Umbrella Excess Liability policies.

**8. Defense of Claims.**

- a. Delivery Company agrees to defend Sears Holdings Corporation, its affiliates and subsidiaries ("SHC") and their respective officers, directors, shareholders, distributors, agents, and employees (collectively, the "Indemnified Parties") against all allegations (even false, fraudulent or groundless allegations) asserted in any claims, lawsuits, investigations or proceedings between any Indemnified Party and any governmental unit or other third party arising out of any of the following (collectively, "Claims"), whether actual or alleged and whether or not Delivery Company's Indemnity and Contribution Obligations (defined below) apply:
- (1) death of, injury to, or illness of any person, damage to or loss of any property, or any other damage or loss to any person, due in whole or in part to the acts or omissions of Delivery Company, its employees, subcontractors or agents, whether or not lawful or related to their performance of the Services; or
  - (2) Delivery Company's violation of any law, statute, ordinance, code, rule, regulation or requirement of a public authority;
  - (3) or an inquiry or investigation by any public authority, or
  - (4) Delivery Company's breach of any provision of this Agreement
- b. Delivery Company will use counsel reasonably satisfactory to SLS and Sears to defend them from Claims. SLS may, at its election, take control of the defense and investigation of the Claims, and may engage attorneys of its choice to defend Claims, at Delivery Company's risk and expense. SLS and its counsel will proceed with diligence and good faith. Delivery Company will defend the Indemnified Parties even from frivolous or unfounded Claims, and even if a Claim is caused in whole or in part by an Indemnified Party's wrongdoing.

**9. Indemnification and Contribution.**

- a. Delivery Company will indemnify the Indemnified Parties from all Claims and all actions, liabilities, settlements, losses, costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation) incurred by any of the Indemnified Parties in any Claim, action, or proceeding between Delivery Company and any Indemnified Party or between any Indemnified Party and any third party, including but not limited to claims of negligence by any Indemnified Party. In any case where this indemnity is not enforceable or where any Indemnified Party or Delivery Company is found liable to a third party, SLS and Delivery Company will each contribute to any judgment awarded in favor of such third party in proportion to its comparative degree of culpability. Delivery Company will not consent to the entry of any judgment or enter into any settlement without the written consent of SLS. An Indemnified Party need not seek recovery from a third party or otherwise mitigate its losses in order to claim under this Section 9.
- b. This indemnification obligation is not limited by the amount or type of damages, compensation or benefits allowed under any workers' compensation, disability benefit or other employee benefit laws.
- c. The indemnification obligation also includes, without limitation, all expenses and reasonable attorneys' fees incurred by the Indemnified Parties to enforce the obligations of Delivery Company.

**10. Marks.**

- a. Delivery Company will, as SLS requests from time to time, display or remove any business names, logos, trademarks, slogans, trade names or service marks of SHC, SLS, Sears, Kmart or their

affiliates (collectively, Marks) on any motor vehicles (including but not limited to doors, cabins, bodies, and trailers) used in the Services. Delivery Company will not allow any Marks to be displayed on any motor vehicles or other equipment unless first authorized in writing by SLS. SLS may require Delivery Company to display its own name or logo on vehicles or equipment, to properly identify Delivery Company as an independent carrier providing Services to SLS. Delivery Company acknowledges that it does not have any proprietary rights to any Marks. When Delivery Company's right to use Marks ends for any reason, Delivery Company will immediately and permanently cease using all Marks. Delivery Company agrees not to challenge SLS right, title or interest in any Marks, except to protect Delivery Company's rights under this Agreement, and agrees not to register any Marks. Upon termination of its rights to use Marks for any reason, Delivery Company will execute and deliver to SLS all documents necessary to confirm ownership of the Marks in SLS or its Clients and to transfer any rights it has acquired in Marks to SLS or other parties whom SLS designates.

- b. Delivery Company recognizes that each Mark possesses a special and unique character which makes it difficult to assess the monetary damages that its owner would sustain in the event of unauthorized use. Delivery Company agrees that if it breaches this Section 10, the owner of a Mark would:
  - 1) suffer irreparable injury;
  - 2) properly be granted injunctive relief; and
  - 3) properly retain any other legal remedies that it may be entitled to.
- c. Delivery Company will remove all Marks from all vehicles and other equipment used in the Services at no cost to SLS before the earliest of:
  - 1) Delivery Company's use of the vehicle for any purpose other than serving SLS;
  - 2) Delivery Company's disposal of the vehicle;
  - 3) termination of this Agreement; or
  - 4) ten (10) days after SLS gives Delivery Company notice to remove them.

If Delivery Company fails to so remove all Marks, Delivery Company will pay SLS as liquidated damages \$50.00 per day for each vehicle or equipment where the Marks remain. Delivery Company agrees this is not a penalty, but rather liquidated damages that are reasonable and appropriate because of the difficulty, time and cost of determining SLS's actual damages resulting from the Delivery Company's failure to remove Marks.

- d. The provisions of this Section 10 will survive expiration or earlier termination of this Agreement.

#### 11. Supervision of Employees; Independent Contractor

- a. Delivery Company will, directly or through subcontractors approved by SLS, provide and direct, supervise and otherwise control all drivers and helpers ("Delivery Teams"), dispatchers and other personnel, procure necessary licenses, provide maintenance, and furnish all tools, equipment and supplies necessary to perform the Services safely and efficiently. Delivery Company will ensure that Delivery Teams are adequately trained to perform Customer deliveries to SLS specifications. Delivery Company will comply with SLS policies that require Customer courtesy, and restrict Delivery Company employees or other unauthorized persons from identified areas in shipping and receiving facilities. If Delivery Company's employees or subcontractors violate these policies, or SLS site safety and security policies, or otherwise engage in offensive, reckless, dishonest, violent or insulting conduct, Delivery Company will immediately correct the violation, including, if requested by SLS, removing the offending employees or subcontractors from further work under this Agreement. SLS request to remove any Delivery Company employee or subcontractor will not be construed to be a direct or indirect request or instruction to Delivery Company to terminate the employment of that individual.

- b. Delivery Company has exclusive control over its labor relations and its employees, and Delivery Company may employ and engage such individuals as it deems necessary. Delivery Company's employees and independent contractors are not agents, employees, or independent contractors of SLS, and SLS has no authority in their employment, termination, discipline or control. Delivery Company is at all times and for all purposes an independent contractor and not an employee of SLS. SLS has no obligation to pay any expenses or costs of complete or partial withdrawal from any pension or employee benefit plan, pursuant to the Employment Retirement Income Security Act of 1974 ("ERISA"). Delivery Company remains the exclusive employer of its employees for all purposes under ERISA and otherwise.
- c. SLS or its Clients may give Delivery Company suggestions to improve the Services. Those suggestions are neither intended nor received as directing or controlling Delivery Company's employees or subcontractors, or the manner or means that they perform the Services. All responsibility for such matters rests with Delivery Company and its subcontractors.
- d. SLS and its Clients have no liability for any contributions, taxes or assessments required to be paid or withheld for Delivery Company's employees or subcontractors under any law or regulation, including but not limited to federal, state or local income taxes, Unemployment Compensation, Workers' Compensation, Disability, Pension, Retirement Income Security, or Social Security. Delivery Company will fully comply with all such laws and regulations, and will ensure that its subcontractors fully comply with them as well.
- e. Delivery Company will comply with all applicable federal, state and local laws and regulations regarding labor relations, compensation, hours of work, or other conditions of employment, including but not limited to, minimum compensation, overtime, equal opportunities and non-discrimination. Delivery Company will comply with all transportation-related federal and state laws and regulations concerning alcohol and drug testing of applicants and employees, whether or not they apply to Delivery Company or its operations.

#### 12. Subcontractors.

- a. Delivery Company may use subcontractors to perform the Services. Regardless, Delivery Company is solely obligated to SLS to meet Delivery Company's obligations under this Agreement, whether or not performed by its subcontractors.
- b. Delivery Company will only use subcontractors who are qualified, staffed, equipped and trained to perform the Services, who have all permits, licenses, insurance, and operating authority necessary to perform the Services, and who otherwise comply with this Agreement.
- c. Delivery Company will keep in place a valid written subcontract agreement with each subcontractor performing Services, requiring the subcontractor to meet all warranties and performance requirements of this Agreement. If requested by SLS, Delivery Company will provide SLS a copy of any subcontract agreement. Delivery Company may exclude price or cost information from the copy of the subcontract agreement that is provided to SLS.
- d. Upon SLS request, Delivery Company will furnish to SLS the business names and addresses of those subcontractors who experience customer service or other performance problems.
- e. SLS has no obligation whatsoever to pay any subcontractor performing Services for Delivery Company.

#### 13. Investigation of Delivery Company Employees, Agents or Subcontractors.

- a. If SLS determines that Delivery Company or any of its Delivery Teams has committed a theft of property of SLS, its Clients or Customers, then Delivery Company will reimburse SLS for the value of the property (unless recovered) and SLS reasonable investigation expenses.

- b. If Delivery Company undertakes an investigation of its employees or subcontractors that may reasonably interfere with the Services, it will give SLS prior notice of the investigation, in order to minimize the disruption to Services.

**14. Ownership of Merchandise, Including Customer Discards.** Delivery Company has no right, title, interest, or claim in Merchandise transported under this Agreement. Merchandise that is discarded by SLS Customers and picked up by Delivery Company when performing Services belongs to SLS or its Clients, and Delivery Company will dispose of it only in accordance with SLS instructions.

**15. Co-Loading of Delivery Merchandise.** Delivery Company will not co-load delivery Merchandise with goods of any other shippers without first obtaining SLS written permission. Delivery Company's decision to co-load Merchandise will not alter its responsibilities under this Agreement.

**16. Confidentiality, Return of Material and Injunctive Relief**

- a. **Confidential Business Information.** "Confidential Business Information" means any information, whether disclosed in oral, written, visual, electronic or other form, which SLS discloses or Delivery Company observes in connection with Delivery Company's performance of the Services. Confidential Business Information includes, but is not limited to *The Home Delivery Consultant's Guide*, *The 5 Star Professional Guidebook*, work product, SHC's business plans, strategies, forecasts and analyses; SHC's financial information; SHC's employee and vendor information; SHC's software (including all documentation and code); hardware and system designs, architectures and protocols; SHC's product and service specifications; SHC's purchasing, logistics, sales, marketing and other business processes; and the terms and existence of this Agreement.
- b. **Treatment of Confidential Business Information.** Delivery Company shall use Confidential Business Information only as necessary to perform the Services and its other obligations under this Agreement. Delivery Company shall restrict disclosure of Confidential Business Information to its ("Personnel") who have a need to know such information to perform the Services and who have first agreed to be bound by the terms of this Section 16. Delivery Company shall require its authorized agents and subcontractors to execute a document stating such agreement. Delivery Company is liable for any unauthorized disclosure or use of Confidential Business Information by any of its Personnel. Within ten (10) days after receiving SLS's written request, Delivery Company shall destroy in such a manner that it cannot be retrieved or return (as instructed by SLS) any materials containing Confidential Business Information. Delivery Company shall certify to SLS that it has satisfied its obligations under this Section 16b.
- c. **Exceptions to Confidential Treatment.**
1. The obligations under this Section 16 do not apply to any Confidential Business Information that Delivery Company can demonstrate:
    - (i) is or becomes publicly available without breach of this Agreement by Delivery Company;
    - (ii) is independently developed by Delivery Company without use of any Confidential Business Information; or
    - (iii) is received by Delivery Company from a third party that does not have an obligation of confidentiality to SLS.
  2. Delivery Company may disclose Confidential Business Information to the extent that, in the reasonable opinion of SLS's legal counsel, it is legally required to be disclosed. Delivery Company shall notify SLS within a reasonable time prior to disclosure and allow SLS a reasonable opportunity to seek appropriate protective measures.

- d. **Confidential Personal Information.** Delivery Company agrees that all information about SHC's individual customers provided by SLS to Delivery Company, including but not limited to names, addresses, telephone numbers, account numbers, customer lists, and demographic, financial and transaction information ("Confidential Personal Information"), shall be deemed confidential.
- e. **Treatment of Confidential Personal Information.**
- (1) Delivery Company shall use Confidential Personal Information only as necessary to perform the Services and its other obligations under this Agreement. Delivery Company shall not duplicate or incorporate the Confidential Personal Information into its own records or databases. Delivery Company shall restrict disclosure of Confidential Personal Information to its Personnel who have a need to know such information to perform the Services and who have first agreed to be bound by the terms of this Section 16. Delivery Company shall require its authorized agents and subcontractors to execute a document stating such agreement. Delivery Company is liable for any unauthorized disclosure or use of Confidential Personal Information by any of its Personnel.
  - (2) Delivery Company shall not disclose the Confidential Personal Information to any third party, including an affiliate of Delivery Company or a permitted subcontractor, without prior written consent of SLS and the written agreement of such third party to be bound by the terms of this Section 16. Unless otherwise prohibited by law, Delivery Company shall (i) immediately notify SLS of any legal process served on Delivery Company for the purpose of obtaining Confidential Personal Information and (ii) permit SLS adequate time to exercise its legal options to prohibit or limit such disclosure.
  - (3) Delivery Company shall establish and maintain written policies and procedures designed to ensure the confidentiality of the Confidential Personal Information. Copies of such policies and procedures shall be provided to SLS upon our request.
  - (4) Within ten (10) days following termination of this Agreement or ten days following the completion of a project for which the Confidential Personal Information has been provided, whichever first occurs, Delivery Company shall, at the SLS's discretion, (i) return the Confidential Personal Information to SLS or (ii) certify in writing to the Delivery Company that such Confidential Personal Information has been destroyed in such a manner that it cannot be retrieved.
  - (5) Delivery Company shall notify SLS promptly upon the discovery of the loss, unauthorized disclosure or unauthorized use of the Confidential Personal Information and shall indemnify SLS and hold SLS harmless for such loss, unauthorized disclosure or unauthorized use, including attorney's fees.
  - (6) Delivery Company shall permit SLS to audit Delivery Company's compliance with the provisions of this Section 16 at any time during Delivery Company's regular business hours.
  - (7) A breach of this Section 16 shall be grounds for immediate termination of this Agreement.
  - (8) In addition to any other rights SLS may have under this Agreement or in law, since unauthorized use or disclosure of the Confidential Personal Information may result in immediate and irreparable injury to SLS for which monetary damages may not be adequate, in the event Delivery Company or any officer, director, employee, agent or subcontractor of Delivery Company uses or discloses or in SLS's sole opinion, any such party is likely to use or disclose the Confidential Personal Information in breach of Delivery Company's obligations under this Agreement, SLS shall be entitled to equitable relief, including temporary and permanent injunctive relief and specific performance. SLS shall also be entitled to the recovery of any pecuniary gain realized by Delivery Company from the unauthorized use or disclosure of the Confidential Personal Information.
- f. **Post Termination Obligation as to Confidential Personal Information.** The provisions of this Section 16 shall survive the termination of this Agreement.

**17. Termination.** Either party may terminate this Agreement, or any Exhibit, without cause and without liability for damages as a result of termination, by giving sixty (60) days prior written notice to the other. In the event of Delivery Company's material breach of this Agreement, SLS may terminate by giving Delivery Company five (5) days written notice, after first advising Delivery Company of the breach and, if the breach can be cured, providing it five (5) days opportunity to cure. If Delivery Company sells or transfers ownership of its business as a contract carrier or experiences a change in its controlling ownership or management during the Term, Delivery Company will give SLS at least thirty (30) days notice prior to the anticipated sale or transfer and SLS, at its sole discretion, may continue or may, by giving Delivery Company notice, terminate this Agreement as of the date of sale or transfer.

**18. Obligations Upon Termination.** Upon termination by SLS, SLS will pay when due all charges accruing prior to termination, and SLS may deduct a reasonable amount to cover outstanding claims from sums due Delivery Company. Upon termination by Delivery Company, Delivery Company will immediately release to SLS all Merchandise in its possession as of the termination date and within ten (10) days of termination, Delivery Company will submit all remaining invoices for final payment. Upon termination of this Agreement, under any provision, SLS will not be obligated whatsoever to pay any monies due for any vehicles or other equipment under any lease or contract entered into by Delivery Company with any third party.

**19. Tax Credit Payments:** The Delivery Company agrees to make an annual payment to SLS in an amount equal to the total gross tax credits claimed or realized by the Delivery Company with respect to the operation of the facility, whether state or federal, including but not limited to investment tax credits, work opportunity tax credits, welfare to work tax credits, and sales tax rebates ("Total Credits"). The annual payment will be made to SLS no later than 30 days after Delivery Company's receipt of the Total Credits payments from the applicable governmental agency. Delivery Company will provide SLS with appropriate documentation, including but not limited to copies of income tax returns to verify the amount of the Total Credits recognized by the Delivery Company in a particular year. SLS reserves the right to request additional documentation necessary to establish the Total Credits claimed by the Delivery Company.

**20. Future or other Delivery Business Operations.** Delivery Company will have no right or interest in future contracts with SLS relating to any delivery operation similar to that under this Agreement, and SLS may, without incurring any liability to Delivery Company:

- a. enter into an agreement for home delivery operations with any entity SLS chooses, including, but not limited to, Delivery Company or any of its counterparts;
- b. directly operate a home delivery operation itself; or
- c. curtail all or any part of its home delivery operations, whether through its own direct operations, or through the contracted performance of home delivery carriers.

**21. Miscellaneous.**

- a. **Force Majeure.** Neither party is liable to the other for failure or delay in performance caused by circumstances beyond its reasonable control, including but not limited to fire, flood, earthquake, war, insurrection, riot, sabotage, epidemic, labor disputes, acts of God, acts of any government or agency thereof or judicial action. The non-performing party will give notice of the non-performance immediately to the other and is excused from performance only to the extent and for such time as the cause that prevents performance continues.
- b. **Strikes, Lockout, Work Stoppage.** If Delivery Company incurs a strike, lockout, work stoppage or other labor dispute that, in SLS reasonable judgment materially affects Delivery Company's performance, then Delivery Company will use its best efforts to immediately engage a substitute service provider reasonably satisfactory to SLS. If such substitute service provider is not satisfactory to SLS, SLS may, but is not obligated to, temporarily or permanently engage a different service provider to perform the Service affected, without obligation to Delivery Company, and without affecting SLS recourse against Delivery Company.

- c. Independent Contractor Relationship. Delivery Company is an independent contractor. Neither this Agreement nor the actions of the parties may be taken as creating a partnership, agency, or joint venture and, except as otherwise stated in this Agreement, neither party is bound by any representation, act or omission of the other.
- d. Cumulative Remedies. All rights and remedies are cumulative, and a party's exercise of any right or remedy is without prejudice to its right to exercise any other right or remedy, in law or equity.
- e. Waivers. No waiver of any default by either party operates as a waiver of any continuing or subsequent default.
- f. Purchases. Neither party may under any circumstances make any purchase nor incur any obligation or expense of any kind in the name of the other party.
- g. Non-Assignment. Delivery Company may not assign or transfer this Agreement or any interest in or part of it, without the prior written consent of SLS. Any attempted assignment or transfer in violation of this Section will be null and void, and will entitle SLS to terminate this Agreement, at its option.
- h. Insecurity. When either party has insecurity as to the other party's performance, it may, request in writing adequate assurance of due performance from the other. If the requesting party does not receive assurance of due performance from the other within 30 days, then the requesting party may immediately terminate this Agreement or any Exhibit.
- i. Severability. The invalidity or unenforceability of any provision of this Agreement will not affect the enforceability of any other provision, and this Agreement will be construed as if the invalid or unenforceable provision were not a part hereof.
- j. Notices. All notices are sufficiently delivered if sent to the address below by any manner that requires a written acknowledgment of receipt from the addressee; including U.S. Postal Service or overnight courier service:

SEARS LOGISTICS SERVICES, INC.  
Contract Management  
3333 Beverly Road, Building A-3  
Hoffman Estates, IL 60179

Delivery Company:  
HomeDeliveryLink, Inc.  
32236 Paseo Adelanto, Suite C  
San Juan Capistrano, CA 92675

- k. Exhibits, Attachments, etc. The Exhibits must be signed by the parties and must reference this Agreement, and when so signed and referenced, are incorporated into this Agreement. This Agreement can be amended or supplemented only in writing, signed by the duly authorized representatives of the parties.
- l. Applicable Law. This Agreement is governed by Illinois law without regard to choice of law rules and the laws and regulations governing interstate commerce.
- m. Security Policies. Each party will cause its employees and subcontractors to comply with the site safety and security rules of the other, while on the premises of the other.
- n. Minimum Tender. SLS agrees to tender to Delivery Company a series of at least five (5) Shipments per year during the Term of this Agreement. If during any annual period, SLS fails to tender the minimum number of Shipments, then SLS shall pay to the Delivery Company, as liquidated damages and not as a penalty, the sum of Twenty-Five (\$25.00) for each deficit Shipment. The first annual period shall commence with the Effective Date of this Agreement. Delivery Company shall be responsible for monitoring the annual minimum volume tender if requirements have not been

met. Failure to do so within six (6) weeks following the end of each annual period shall extinguish any claim for liquidated damages. If this Agreement is terminated before the end of the annual period, the minimum volume commitment of SLS shall be proportionately reduced.

- o. Entire Agreement. This Agreement, including the Exhibits and all other documents, contains the entire agreement between the parties and supersedes all prior agreements and understandings between the parties regarding the Services. This Agreement cannot be supplemented or changed except in writing, signed by duly authorized representatives of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SEARS LOGISTICS SERVICES, INC.

By: Sears Holding Management Corporation,  
Its Agent

*J. Trach* *ot*

By: Joan Trach

Its: Vice President

HomeDeliveryLink, Inc.

By: *R.E. Fleischer*

Its: PRESIDENT

EXHIBIT A  
HOME DELIVERY & SHUTTLE CARRIER AGREEMENT  
OPERATIONS and RESPONSIBILITIES

Part I. SLS FUNCTIONS

Delivery Company will perform Services under this Agreement subject to and in accordance with the following SLS functions:

**1. ALL LOCATIONS**

**A. Routing**

SLS will coordinate routing for all deliveries, with Delivery Company's input.

**B. Freight Lanes**

Freight lanes will be built, monitored and modified by SLS MDO Managers, with Delivery Company's input.

**C. Customer Service Office**

SLS maintains a customer service office to provide Delivery Teams alternate delivery instructions whenever a delivery will be made outside its specified time-frame, cannot be completed or when damage occurs during delivery. The Delivery Team will accommodate all reasonable requests by the customer service office for such deliveries. If the Delivery Team is unable or unwilling to comply, the customer service office will ask Delivery Company's local manager to provide an alternative solution.

**D. Delivery Company Performance Assessment**

SLS expects 100 percent adherence by Delivery Company to all of the duties specified in Part II of this Exhibit (Delivery Company Responsibilities). SLS MDO Managers may document instances of failure to comply with Part II and will provide Delivery Company copies of the documentation so that Delivery Company may counsel the Delivery Team involved.

The MDO Manager will provide copies of documented Delivery Company failures to the appropriate SLS Contract Carrier Manager. At such time, SLS may give Delivery Company written notice that its failures may lead SLS to terminate this Agreement. SLS notice will state quantifiable measures and deadlines to correct the failures. If Delivery Company does not correct the failures by the specified deadlines, SLS may terminate this Agreement in whole or in part.

**E. Communication**

1. Pre-Call. SLS will attempt to notify all Customers prior to delivery of the delivery time frame assigned to their delivery.
2. Point-of-Sale Issues. The SLS MDO Manager is responsible for communicating with Sears associates at retail stores and elsewhere. The SLS MDO Manager will create a coaching report based on information provided by Delivery Company personnel regarding perceived point-of-sale errors. The SLS MDO Manager will provide the coaching report to Sears store associates and to report back to Delivery Teams at stand-up meetings on any progress made.
3. Customer Contact. SLS will provide customer service personnel to be contacted by home delivery Customers. Inbound contacts from Customers are NOT to be directed to the Delivery Company. Similarly, Delivery Company will NOT contact a Customer directly, except to resolve property damage claims post-delivery or pre-delivery to update a delivery time frame. If Delivery Company wishes to contact a Customer for any other reason, Delivery Company will ask the SLS MDO Manager to assign an SLS associate to make the contact.

F. Delivery Meetings

SLS MDO Manager will attend Sears intra-company Delivery meetings. Delivery Company's local manager will be invited by and should attend with the SLS MDO Manager on all occasions.

G. Haul-Aways

The SLS MDO Manager is responsible for implementing a haul-away program for disposal of junk appliances and bedding in each market.

2. MDO'S THAT HAVE DAILY SLS PRESENCE

A. Stand-Up Meetings

The SLS MDO Manager or designate will attend Delivery Company's daily delivery team stand-up meeting. The Delivery Company's local manager or designate should preside, and all Delivery Teams making deliveries that day should attend. The meeting should seek input from each Delivery Team about problems encountered during recent deliveries, cover new information from SLS, etc. The SLS MDO Manager or designate will communicate relevant information from SLS and listen to comments of the Delivery Teams.

B. Load-Out

One or more SLS associates will be present during the loading of Merchandise onto delivery vehicles during load-out. SLS associates will help locate missing Merchandise, inspect cartons and Merchandise suspected of damage, and assist Delivery Teams with any special circumstances that arise.

C. Check-In

One or more SLS associates will be present when Delivery Company's vehicle arrives at the end of a route (Check-in). SLS associates will identify Merchandise for which damage claims will be presented to Delivery Company, and confirm that Records of Return ("ROR"), tote documentation, and the delivery Manifest have been completed properly.

D. Tote Replenishment

SLS associates will replenish delivery supply totes (appliance and furniture) upon proper completion of the "tote sheet" by Delivery Company. SLS will also maintain control of all inventory related to the delivery supply totes.

3. MDO'S THAT DO NOT HAVE DAILY SLS PRESENCE

A. Additional Delivery Company Requirements

Delivery Company's local manager will adhere at all times to SLS MDO processes as defined in SLS "ISO" documentation. Delivery Company's local manager will also convey information from Delivery Teams to an SLS MDO Manager on a regular and timely basis.

B. Check-In

Associates of SLS or its Warehouse Operations Contractor, along with Delivery Company employees or Delivery Team, will identify Merchandise damaged by Delivery Company, and confirm that ROR and tote documentation, and the delivery Manifest have been completed properly.

C. Tote Replenishment

Delivery Company will replenish delivery supply totes daily (appliance and furniture) upon proper completion of the "tote sheet." Delivery Company will also maintain control of all inventories related to the delivery supply totes.

4. MDO'S WHERE AN SLS CONTRACTOR PERFORMS WAREHOUSE FUNCTIONS

A. Staging

Merchandise will be staged for Delivery Company in the bay indicated by SLS routing software.

Every effort will be made to complete staging by the time agreed to between the MDO Manager and Delivery Company's local manager.

B. Uncartoned Merchandise

Any Merchandise that has been uncartoned will be appropriately protected from damage through the time it is staged in the correct delivery bay. Delivery Company assumes responsibility once an item is taken from the delivery bay for loading onto a delivery vehicle.

## PART II: DELIVERY COMPANY RESPONSIBILITIES

### **1. BASIC DELIVERY PROCEDURES**

A. Manifests

In order to meet Customers' strict demands for timely delivery of Merchandise, while efficiently completing deliveries, Delivery Company must run all delivery routes exactly as specified on the manifest, unless agreed to otherwise by an SLS Associate. Only 100 percent adherence to the manifest will keep deliveries within promised time frames and allow time frames to be shortened in the future. Delivery Company's local manager is encouraged to communicate with the SLS MDO Manager regarding potential routing improvements.

Each Delivery Team will protect its manifests from the elements and from wear and tear during the delivery day. Delivery Teams will NOT present folded, crinkled, weather-beaten, etc. manifests to Customers for signature.

B. Load-Out

During loading of Merchandise onto delivery vehicles at the beginning of the route (Load-Out), Delivery Teams will examine Merchandise in bays for signs of carton and Merchandise damage, missing hardware or manifest discrepancies. Delivery Teams will promptly report suspected damage or discrepancies to an SLS associate or Delivery Company's Terminal Manager. If taken for delivery, the Delivery Team will note each suspected problem on the manifest.

The Delivery Team will sign the manifest at the completion of load-out to accept responsibility for the condition of Merchandise from that point on. The Delivery Team will obtain the signature of its Terminal Manager and SLS MDO Manager on each manifest as well.

C. Merchandise Protection

Delivery Company must secure and otherwise protect from damage all Merchandise in the delivery vehicle, including all return Merchandise.

Delivery Company will maintain, at its expense, sufficient protective devices (blankets, pads, straps, hand trucks, etc.) to protect Merchandise at all times.

*Return Merchandise not secured will be presumed to have been damaged by Delivery Company, and appropriate claims will be filed for reimbursement.*

D. Entry into Customer's Premises and Signed Acceptance of Delivery

Delivery Teams may NOT enter any Customer location without a responsible adult who is capable of accepting and signing for delivery. The Delivery Team must NOT leave Merchandise without a signature of acceptance. If the signature is not legible, the Delivery Team must have the person signing print his or her name below the signature. To complete a delivery, the Delivery Team must have the manifest signed to show acceptance of the delivery by:

- a. the Customer,
- b. a member of the Customer's household, over 18 and competent, or

- c. a third party (such as a neighbor), but only if the Customer has previously given the Delivery Team a written note authorizing them to deliver the Merchandise to that neighbor.

The third party referenced in subpar. c. above must:

- be at a nearby address,
- accompany the Delivery Team into the residence, and
- sign the manifest acknowledging receipt.

Requests such as "Pick up key from neighbor" must NOT be honored. But a Delivery Team may proceed with a delivery where a neighbor with the Customer's written authorization unlocks a Customer's residence, accompanies the Delivery Team and signs for the delivery.

Delivery team may leave Merchandise in an unoccupied residence without a signature only when a letter of authorization to leave without signature is on file for that customer. Letters of authorization are available from SLS.

E. Not-at-Home

Delivery Teams are to leave a "Not Home" tag at the Customer's location. The Delivery Team will promptly call the customer service office and provide enough information to satisfy SLS that the Delivery Team was at the Customer's location. The customer service office will attempt to contact the Customer and may advise the Delivery Team to return to the Customer's home at some point during the delivery run.

F. Customer Door Removal

If removal of a door is necessary to complete a delivery, Delivery Team will remove pin-hinged doors at the Customer's location and replace the doors upon completion.

G. Voice Response Unit (VRU)

Delivery Teams must contact the customer service office or the VRU after each stop. If impossible, the Delivery Team is to communicate with the VRU at the next stop.

H. Refused Merchandise

The Delivery Team must contact the customer service office if the Customer refuses delivery. After talking to the Customer, the customer service office will advise the Delivery Team regarding disposition of the Merchandise. The Delivery Team must stay at the delivery location until the issue is resolved. Refused Merchandise returned to the MDO must be returned in its carton.

I. Delivery Completion Prohibitions

The Delivery Teams will NOT, in the course of performing the Services at a Customer's premises:

- remove spring-loaded, folding and sliding glass doors,
- remove windows,
- hoist Merchandise,
- place Merchandise on top of an elevator,
- with the exception of installing the range anti-tip bracket, perform carpentry work (removing molding/banisters drilling into Customer's walls or floors, etc.), or
- perform electrical work (changing fuses, wiring within an electrical outlet).

Delivery teams must NOT allow a Customer to carry Merchandise or assist with Merchandise hook-up.

J. Removing Customer's Current Appliances, Bedding, or Furniture

The Delivery Team will:

- Move ONE old appliance, TV, mattress-box spring, or piece of furniture on the Customer's premises for EACH new appliance, TV, mattress-box spring, or piece of furniture delivered, and

- place mattresses picked up at Customer's homes in plastic mattress bags.
- If requested or instructed to on the manifest, Delivery Team will return the old appliance, TV, mattress-box spring, or piece of furniture to the MDO. (Haulaway)

The Delivery Team will NOT:

- reconnect Customer's current appliance elsewhere, or
- leave Customer's old TVs outside.

- **Note: if the Customer has not done so, Delivery Team must disconnect Customer's current appliance or TV, including icemaker water lines, prior to hooking-up the new appliance or TV.**

- **Note: For deliveries to multi-unit locations, the Delivery Team will move old appliances or furniture to an authorized storage or disposal area.**

- **Note: refrigerators and freezers cannot be moved outside unless the doors are removed; if the Customer has not done this, the Delivery Team must!**

Appliances picked-up at a Customer's home must be the same appliances returned. Delivery Company and its Delivery Teams must never sell, trade or barter a Customer's current appliances; that will be considered theft of services. Delivery Company will ensure that each Delivery Team member has signed an acknowledgement that the unauthorized removal of Customer return appliances or Merchandise in connection with the Services is, among other things, a criminal act, and grounds for removal from any SLS account activities, as well as termination of this Agreement.

**K. Returns**

Delivery Team will accurately complete a Record of Return ("ROR") document when returned Merchandise is picked up and must return Merchandise in a carton or use blanket wrap to protect against damage.

**L. Check-In**

When an SLS associate at check-in suspects Merchandise of being damaged by Delivery Company and Delivery Company's check-in representative or Delivery Team disagrees, the Delivery Company will assist SLS in placing the Merchandise in a designated location for review by the SLS MDO Manager and Delivery Company's local manager.

**M. Property Damage**

Delivery Company will report to its Terminal Manager and SLS customer service office any damage to Customer's property by Delivery Teams at the time it occurs. The customer service office will advise the Delivery Company management, who will communicate with the Customer immediately.

**N. Breakdowns and Accidents**

Delivery Company will report any vehicle breakdowns and accidents to the Delivery Company's Terminal Manager and SLS customer service office immediately after they occur.

**O. Special Instructions**

Delivery Teams must contact the SLS customer service office with any questions regarding Special Instructions listed on the manifest that require contact with the Customer.

**P. Four-Man Deliveries**

Delivery Company will coordinate any delivery requiring two teams to complete. But in any event, SLS will pay no more than the stop charge for a two-man delivery.

**Q. COD Collections**

Before delivering or surrendering possession of any C.O.D. shipment of Merchandise to any customer or other consignee of SLS, Delivery Company shall collect all funds due thereon. If such

sums are not collected, Delivery Company shall retain such shipment and promptly notify SLS thereof, and return said shipment to SLS. All funds collected or to be collected upon such C.O.D. shipments by Delivery Company and Delivery Company's employees and other persons engaged by Delivery Company shall be accounted for and paid to SLS in the form of a cashier's check payable to Sears Contract Sales on at least the next business day of SLS, unless other methods or times for such payment are specifically provided for in writing. Until so paid, such funds shall be held in trust for SLS by Delivery Company, separately and apart from all other funds. SLS shall have the right at all times to deduct and retain from any funds due and payable by SLS to Delivery Company a sum equal to the funds collected or to be collected upon C.O.D. shipments not yet paid to SLS. The Delivery Company shall not charge a C.O.D. fee to the consignee of any C.O.D. shipment or to SLS. Delivery Company agrees that all funds collected upon C.O.D. shipments are the sole property of SLS, and that Delivery Company has no right, title, interest or claim to or in said funds.

Delivery Company agrees that it will maintain accurate books and records to reflect the disposition of all Merchandise tendered to Delivery Company hereunder and C.O.D. monies collected by Delivery Company under this Agreement. Said books and records shall be maintained and kept according to consistently applied standard accepted accounting practices. Delivery Company agrees that it will permit SLS, at SLS expense, to examine Delivery Company's books and records pertaining to Delivery Company's compliance with the terms and conditions of the Agreement at any reasonable time and from time to time.

## **2. OTHER REQUIREMENTS**

### **A. Daily Operations Meetings**

The Delivery Company's local manager shall meet with the SLS MDO manager daily. The meeting should review the previous days performance, surveys, cap planning, claims and any other operational issues.

### **B. Delivery Vehicles**

Delivery Company will use vehicles that can deliver Merchandise safely, without damage, cost-effectively, and in compliance with all laws and regulations.

Delivery Company will use its best efforts to improve the efficiency of its delivery operation. SLS may from time to time support Delivery Company's efforts by a) identifying vehicles particularly suited for the Services in SLS judgment, b) using reasonable efforts to extend the benefits of SLS preferred vendor vehicle supply arrangements to Delivery Company, and c) allow Delivery Company to benchmark its vehicle costs against those of SLS elsewhere in its home delivery network. Delivery Company decision to use SLS supporting resources is wholly Delivery Company's and Delivery Company does so at its sole risk.

Delivery Company will ensure that all delivery vehicles, except rental vehicles, are painted white with lettering and graphics approved by SLS. Vehicles must be clean, dry, leak-proof, odor free and free of any contamination or infestation. They must also be kept clean and free of debris.

Delivery trucks should be a minimum of 24" in length by 102 inches wide, and 110 inches in height, unless restricted by law.

### **C. Delivery Vehicle Accessories**

Delivery Teams will adequately stock their vehicles with the following items before starting a delivery route:

- Appliance and/or furniture totes (supplied by SLS),
- "Not Home" and ROR tags (supplied by SLS),
- plastic mattress return bags (except for appliance-only delivery vehicles) (supplied by SLS),

- clean protective blankets, pads and tie down straps (supplied by Delivery Company), and
- proper tools to complete all deliveries, specifically including, level, power drill, and drill bits (supplied by Delivery Company).

**D. Delivery Team Apparel and Appearance**

Delivery Teams must have a clean, professional, appearance when in a Sears store or on a delivery route, including the following apparel (not provided at SLS expense):

- shirt, industrial light blue with navy stripe,
- emblem with "Sears-Authorized Delivery,"
- pant, industrial navy blue (navy blue industrial shorts are acceptable in warm weather),
- belt with covered buckle, black,
- shoe, appropriate work type, black
- jacket, navy blue, emblem with "Sears-Authorized Delivery,"
- baseball cap/stocking cap (optional) navy blue w/Delivery Company emblem,
- gloves (optional), and
- back support/protector (color, black) or other personal safety equipment, as determined by Delivery Company.
- if a sweatshirt is needed, it should be worn underneath the uniform shirt.

Delivery Teams should appear neat, clean and professional in any Sears store and on any delivery route.

**E. Delivery Team Business Cards**

Delivery Teams may distribute business cards to Customers, at Delivery Company's discretion and expense. But any cards so distributed must include:

- Sears delivery customer service phone # (800/SEARS-47 and/or 800/732-7747
- Sears appliance repair phone # (800/4-REPAIR and/or 800/473-7247
- Sears central installation phone #(800/865-6500)

Business cards must use the phrase "A Sears-Authorized Delivery Company," but may not include any other reference to Sears, Roebuck and Co., Kmart or to SLS.

**F. Training**

Delivery Teams should be knowledgeable at all times of all requirements associated with making deliveries on behalf of SLS. SLS may from time to time provide videotaped or printed material and may speak with individual Delivery Team members to assure itself that the Delivery Teams are knowledgeable of SLS delivery requirements.

**G. Special Requests**

Delivery Company will be asked to provide out-of-the ordinary delivery services, from time to time. Delivery Company is expected to accommodate special requests.

**H. Local Codes**

Delivery Company will ensure that its Delivery Teams know and comply with all local codes and regulations related to appliance hook-up, and otherwise related to the Services.

**3. APPLIANCE AND ELECTRONICS DELIVERY PROCEDURES - RETAIL**

*NOTE: Delivery Company must follow all instructions relating to the setup, connection, or other aspects of the Services that the product manufacturer publishes from time to time. In the event any requirements of this Agreement, or instructions coming from SLS, its Clients, or any other SLS*

*representatives, conflict with manufacturers' instructions, the manufacturers' instructions will control, and Delivery Company will promptly advise SLS of the conflict.*

**A. All Appliance and Electronics Deliveries**

Unless the manifest indicates a brown-box delivery, the Delivery Team will:

- remove item from carton,
- remove carton and / or all packing material from premises,
- slice cardboard cartons and pack into a single empty carton,
- collect non-cardboard packing material (wood, metal, Styrofoam, or plastic) in a separate container, and
- level.

If unable to complete a hook-up, the Delivery Team will:

- explain to the Customer why the hook-up cannot be completed, and
- report the non-hook-up to Delivery Company's Terminal Manager and SLS customer service office. On refrigerators with water line hook ups and the customer has no shut off valve or shut off valve is not on the same level or no water line or water service, the Delivery Team must also report the refrigerator serial number and notate the serial number on the manifest.

**B. Refrigerator and Freezers**

- place all racks, crispers, ice trays, and door handles and other features in factory recommended positions,
- leave all "To be removed by customers only" literature on / in the product where attached by the manufacturer,
- gather all other literature and hand to the customer,
- plug unit in and turn to a mid-range cold setting,
- remove and re-attach handles and doors to complete delivery, if needed,
- reverse doors, if requested,
- Prior to connecting or re-connecting the water line, test the Customers water supply line by using the Water Flow tester. If tester indicates marginal (YELLOW) or poor (RED) water flow, than complete a "Customer Information Sheet" and give to the customer. Notify the SLS customer service office and notate the refrigerator Serial number on the delivery manifest.
- re-connect icemaker to existing water line, provided that water line meets manufacturer and local building requirements. Note: icemaker connection may require connectors and additional tubing.
  - if icemaker present and water connected, turn on the icemaker,
  - if icemaker present and water is NOT connected, insure the icemaker is turned off to prevent buzzing noise.
  - if water dispenser present, use a glass and run the dispenser until water begins to flow.
- align the doors,
- install the OEM or manufacturer-provided anti-tip or other appliance stability device.
  - If anti tip or other appliance stability device is NOT installed, then do NOT connect the appliance to the power supply or slide into place, but leave the appliance in a safe place unconnected to a power supply,
- level.

**C. Gas Ranges**

- connect to existing gas line using new gas connector,
- remove protective plastic, inside and out
- set grates and burners in place
- install the OEM or manufacturer-provided anti-tip or other range stability device.
  - If anti tip or other range stability device is NOT installed, then do NOT connect the range to the power supply or slide into place, but leave the range in a safe place unconnected to a power supply.

-level, and

-test for proper operation of burners and ovens and for possible gas leaks.

Note: Do NOT connect to a Liquid Propane source or to any other supply source than natural gas.

If gas shut-off valve is NOT above the floor do NOT disconnect old range.

If re-connecting is prohibited by local code, do NOT disconnect old range.

D. Electric Ranges

- test 220 volt outlet using the 3 wire or 4 wire electrical outlet tester
- if test indicates an "outlet defect", complete a Customer Information sheet and hand to the customer, notate range serial number on the manifest and notify the SLS customer service office, advise the customer that it would be best not to connect and operate the range at this time.
- If tester does not indicate a "outlet defect" then,
- connect to existing 220 volt outlet using new "pigtail,"
- remove protective plastic, inside and out
- set grates and burners in place
- install the OEM or manufacturer-provided anti-tip or other range stability device
  - If anti tip or other range stability device is NOT installed, then do NOT connect the range to the power supply or slide into place, but leave the range in a safe place unconnected to a power supply.
- note: do NOT install or unplug direct wire hook-ups
- level, and
- test for proper operation of burners and ovens.

E. Washing Machines

- remove shipping restraints; attach front legs; adjust rear legs;
- connect drain hose; connect to existing hot/cold water taps,
- ground washer to a metal pipe or grounded receptacle,
- note: if no grounding is available, do NOT hook-up
- level, and
- test run on short cycle; check for water leaks.

F. Gas Dryers

Note: do NOT connect to a Liquid Propane supply source or to any other supply source than natural gas.

- attach dryer legs,
- connect dryer discharge using *new* metal vent kits only (connect venting at back or side),
  - note: if metal vent cannot be connected to existing venting system, do NOT complete hook-up
  - note: if existing vent does not vent outside the home, do NOT complete hook-up
  - connect to existing gas line using new gas connector,
  - note: if gas shut-off valve is NOT above the floor, do NOT disconnect old dryer
  - note: if re connecting is prohibited by local code, do NOT disconnect old dryer
- test that on-off switch starts cycle and for possible gas leaks, and
- level.

G. Electric Dryers

- attach dryer legs;
- test 220 volt outlet using the 3 wire or 4 wire electrical outlet tester
- if test indicates an "outlet defect", complete a Customer Information sheet and hand to the customer, notate dryer serial number on the manifest and notify the SLS customer service office, advise the customer that it would be best not to connect and operate the dryer at this time.
- If tester does not indicate a "outlet defect" then,
- connect to existing 220 volt outlet using a *new* "pigtail,"

- connect dryer discharge using *new* metal vent kits only (connect venting at back or side),
  - note: if metal vent cannot be connected to existing venting system, do NOT complete hook-up
  - note: if existing vent does not vent outside the home do NOT complete hook-up
- test, and
- level.

**H. All-in-One Laundry Appliances (Front-End Loaders; Stack Units)**

- do NOT remove shipping brace until unit is in final location,
- remove shipping brace when unit is in final location and give brace to Customer, and
- follow other instructions for items E, F and G, above.

**I. Portable Dishwashers, Built-In Dishwashers, Built-In ovens, and Trash Compactors**

- on Customer request, uncarton and place in location that Customer specifics, and
- if item comes with casters, attach casters.
- Delivery Teams must NOT hook-up dishwashers, built-in ovens or compactors.

**J. TVs, VCRs, and Sound Systems (Stereos)**

- remove shipping bolts and packing strips, attach legs, plug into outlet,
- place in location specified by Customer, and
- for TVs, connect antenna or cable lead-in or signal supply.
- During winter, advise Customer NOT to turn TV on until set reaches house temperature. This should be approximately one hour after delivery.

**k. Plasma TV's**

- remove shipping bolts and packing material, attach base and speakers,
- set in place
- connect speakers to monitor,
- connect monitor to tuner
- connect tuner to signal supply

**4. FURNITURE DELIVERY PROCEDURES**

**A. All Furniture and Bedding Deliveries**

If Merchandise is NOT pre-assembled, Delivery Team will:

- remove item from carton,
- remove carton/packing material/protective plastic from premises,
- slice cardboard cartons and pack into a single empty carton,
- collect non-card board packing material (wood/metal/Styrofoam/plastic) in a separate container,
- dust all furniture after setting up in Customer's home,
- minor finish touch-ups are to be performed using Delivery Team's repair kit,
- clean all glass with a commercial glass cleaner after setting up in Customer's home,
- remove all hang tags and instructions and give them to Customer,
- remove one mattress and box spring for each piece of bedding delivered, and
- level all tables and cabinets.
- All furniture items not assembled prior to load-out must be assembled in the Customer's home.

If unable to complete assembly, the Delivery Team must:

- explain to Customer why the assembly cannot be completed,
- contact the SLS customer service office.

**B. Lawn Furniture**

- on Customer request, uncarton and place in location specified by Customer.

C. Carpeting

- leave in wrapping and place in location specified by Customer.
- note: carpeting is NOT to be unrolled.

D. Beds, Bed Frames, Mattresses

- set mattress and box-spring upon Customer's bed frame,
- attach frames and rails to pre-bored or pre-slotted head and footboards only,
- assemble electric beds in the Customer's home using instructions included in the carton, and
- set water beds in locations specified by Customer; Customer is to fill with water.

E. Bedroom Furniture

- attach mirrors to dressers; use assembly instructions in carton; secure brackets into wood,
- do NOT attach mirrors to walls, doors, etc.,
- assemble and connect light bridges, mirrors, pier cabinets, and headboards,
- insert and adjust levelers on door chests and armoires, and
- level doors using instructions in the carton.

F. Dining Room Sets

1. Tables

- bolt or screw table legs to table base (note: this may include drilling into table top),
- insert table leaves, and
- level.

2. Chairs

- ask if Customer wants plastic seat covers removed from upholstered chairs, if so, remove.
- Attach and insert chair buckets and bases.

3. Cabinets

- set base or decks in place; attach deck to base by securing mending plates into wood,
- set all shelves and glass doors in place,
- connect or plug in light harnesses on lighted decks; remove wrap from light bulb,
- test lights, and
- level doors using leveling instructions in carton.

G. Occasional Furniture

- set-up occasional tables, wall units, entertainment centers or curio cabinets,
- put shelves, glass doors and glass inserts in place,
- plug in lighted cabinets; remove paper wrap from light bulbs; test lights, and
- level cabinet curio doors using instructions packed with product.

H. Upholstered Furniture

- attach legs; remove shipping straps; remove plastic wrap, and
- untie mechanism on sleepers and motion furniture; remove wrapper around skirts.

I. Grandfather Clocks

- uncarton; place in location requested by Customer.

5. MISCELLANEOUS

A. Pool, Ping-Pong and Game Tables

- uncarton; place components in location requested by Customer.
- DO NOT ASSEMBLE pool and Ping-Pong tables.

**B. Plumbing Materials, Sheds, Lawn Buildings, Gym Sets**

- deliver in carton; place where Customer requests,
- DO NOT INSTALL plumbing materials.
- DO NOT ASSEMBLE sheds, lawn buildings, or gym sets.

**C. Tractors/Riding Mowers, Gas Grills, Tool Chests, Exercise Equipment/Bicycles**

- uncarton on Customer request.
- assemble treadmills
- DO NOT ASSEMBLE lawn tractors, riding mowers, gas grills, except Kenmore Elite Stainless Steel grills, tool chests, bicycles or exercise equipment, except treadmills.

**D. Gas Grills - Kenmore Elite Stainless Steel Gas Grills & Islands**

- Uncarton; place where Customer requests,
- Remove plastic, inside and outside, remove plastic straps holding burners,
- Assemble side shelf and side handle
- If Island is delivered, attach to grill in place of side shelf and/or side handle.

**6. CONTRACT SALES - APPLIANCE DELIVERY PROCEDURES**

**A. Communication**

Pre-Call. Delivery Company will attempt to notify all Customers the morning of delivery. Delivery Company will provide the customer with a three-hour window of delivery. Deliveries are to be made between 7am and 4pm, for new construction customers and after 9am for apartment and Property Management customers, unless the customer agrees to a later time frame. Delivery Company will accommodate customer's request for morning or afternoon delivery when possible, as well as requests for call ahead from previous stop or call 1 hour before stop is to be made.

Pre-Call will verify the following:

1. Customer is ready for delivery
2. Address/Lot and Block numbers and directions
3. Merchandise that is being delivered.

**B. APPLIANCE DELIVERY PROCEDURES**

*NOTE: Delivery Company must follow all instructions relating to the setup, connection, or other aspects of the Services that the product manufacturer publishes from time to time. In the event any requirements of this Agreement, or instructions coming from SLS, its Clients, or any other SCS representatives, conflict with manufacturers' instructions, the manufacturers' instructions will control, and Delivery Company will promptly advise SLS of the conflict.*

**A. Appliance Delivery Definitions**

**IN CARTON**

- Unload from truck and place inside the dwelling unit (i.e.: kitchen).
- If cartoned product is too large to fit through doorways, leaving the cartoned product in a secured location (i.e.: garage) shall constitute a completed delivery.

**UNCARTON/SET IN PLACE**

- Remove item from carton
- Place product in furnished location
- Product is to be leveled
- Cords attached
- Outside tape and cardboard removed

- Remove trash and haul away from site.

**DELUXE TENANT READY**

- Same as Uncarton/ Set in Place, AND
- Remove all tape & packing materials from Merchandise
- Hook Up
- Test for leaks
- Remove carton/packing material from premises
- Slice cardboard cartons and pack into a single empty carton,
- Collect non-cardboard packing material (wood, metal, Styrofoam, or plastic) in a separate container

If unable to complete a hook-up, the Delivery Team will:

- Explain to the Customer why the hook-up cannot be completed, and
- Report the non-hook-up to Delivery Company's Terminal Manager and the SLS Customer Service Office.

**B. Refrigerator and Freezers**

**UNCARTON / SET IN PLACE**

- Remove item from carton
- Place product in furnished location
- Product is to be leveled.
- Outside tape and cardboard removed
- Remove trash and haul away from site.

**TENANT READY:**

- Uncarton / Set in Place and
- place racks, crispers, ice trays, and door handles in factory recommended positions,
- plug unit in and turn to a mid-range cold setting,
- remove and re-attach handles and doors to complete delivery, if needed,
- reverse doors, if requested,
- re-connect icemaker to existing water line, provided that water line meets manufacturer and local building requirements, and
- **Note: icemaker connection may require connectors and additional tubing**
- install the OEM or manufacturer-provided anti-tip or other appliance stability device.
- If anti tip or other appliance stability device is NOT installed, then do NOT connect the appliance to the power supply or slide into place, but leave the appliance in a safe place unconnected to a power supply,
- Level.

**C. Gas Ranges**

**UNCARTON / SET IN PLACE**

- Remove item from carton
- Place product in furnished location
- Product is to be leveled
- Outside tape and cardboard removed
- Remove trash and haul away from site.

**TENANT READY**

- Uncarton / Set in Place and
- Connect to existing gas line using new gas connector,
- Level, and
- Test for proper operation of burners and ovens and for possible gas leaks.
- install the OEM or manufacturer-provided anti-tip or other range stability brackets
- If anti tip or other range stability bracket is NOT installed, then do NOT connect the range to the power supply or slide into place, but leave the range in a safe place unconnected to a power supply.

**Note: Do NOT connect to a Liquid Propane source or to any other supply source than natural**

gas.

If gas shut-off valve is NOT above the floor do NOT disconnect old range.

If re-connecting is prohibited by local code, do NOT disconnect old range.

**D. Electric Ranges**

**UNCARTON / SET IN PLACE**

- Remove item from carton
- Place product in furnished location
- Product is to be leveled
- Cord attached
- Outside tape and cardboard removed
- Remove trash and haul away from site.

**TENANT READY**

- Uncarton / Set in place and
- Connect to existing 220 volt outlet using new "pigtail,"
- install the OEM or manufacturer-provided anti-tip or other range stability brackets
  - If anti tip or other range stability bracket is NOT installed, then do NOT connect the range to the power supply or slide into place, but leave the range in a safe place unconnected to a power supply.
- **Note: do NOT install or unplug direct wire hook-ups**
- level, and
- Test for proper operation of burners and ovens.

**E. Washing Machines**

**UNCARTON / SET IN PLACE**

- Remove item from carton
- Place product in furnished location
- Product is to be leveled
- Outside tape and cardboard removed
- Remove trash and haul away from site.

**TENANT READY**

- Uncarton / Set in place and
- remove shipping restraints; attach front legs; adjust rear legs,
- connect drain hose; connect to existing hot/cold water taps,
- ground washer to a metal pipe or grounded receptacle,
  - **Note: if no grounding is available, do NOT hook-up**
- level, and
- Test run on short cycle; check for water leaks. If there is no water service, do not hookup.

**COIN-OP WASHER**

- Same as Tenant Ready and
- Set coin denomination and hook up coin chute and moneybox.

**F. Gas Dryers**

**UNCARTON/ SET IN PLACE**

- Remove item from carton
- Attach dryer legs
- Place product in furnished location
- Product is to be leveled
- Outside tape and cardboard removed
- Remove trash and haul away from site.

TENANT READY

Note: do NOT connect to a Liquid Propane supply source or to any other supply source than natural gas.

- Uncarton / Set in place and
- connect dryer discharge using *new* metal vent kits only (connect venting at back or side),
  - Note: if metal vent cannot be connected to existing venting system, do NOT complete hook-up
  - Note: if existing vent does not vent outside the home, do NOT complete hook-up
- connect to existing gas line using new gas connector,
  - Note: if gas shut-off valve is NOT above the floor, do NOT disconnect old dryer
  - Note: if re connecting is prohibited by local code, do NOT disconnect old dryer
- test that on-off switch starts cycle and for possible gas leaks, and
- Level.

G. Electric Dryers

UNCARTON / SET IN PLACE

- Remove item from carton
- Attach dryer legs
- Place product in furnished location
- Product is to be leveled
- Cord attached
- Outside tape and cardboard removed
- Remove trash and haul away from site.

TENANT READY

- Uncarton / Set in place and
- Attach dryer legs: connect to existing 220 volt outlet using a *new* "pigtail,"
- connect dryer discharge using *new* metal vent kits only (connect venting at back or side),
  - Note: if metal vent cannot be connected to existing venting system, do NOT complete hook-up.
  - Note: if existing vent does not vent outside the home do NOT complete hook-up
- test, and
- Level.

COIN-OP DRYERS

- Same as Tenant ready and
- Set coin denomination, set timing CAM, hook up coin chute and moneybox.

H. All-in-One Laundry Appliances (Front-End Loaders; Stack Units)

UNCARTON / SET IN PLACE

- Remove item from carton
- do NOT remove shipping brace until unit is in final location,
- remove shipping brace when unit is in final location and give brace to Customer, and
- Place product in furnished location
- Product is to be leveled
- Cord attached
- Outside tape and cardboard removed
- Remove trash and haul away from site.

TENANT READY

- Uncarton / Set in place and
- do NOT remove shipping brace until unit is in final location,
- remove shipping brace when unit is in final location and give brace to Customer, and
- Follow other instructions for items E, F and G, above.

I. Portable Dishwashers, and Trash Compactors

- on Customer request, uncarton and place in location that Customer specifies, and
- If item comes with casters, attach casters.

J. Dishwashers

- Remove item from carton change colored door panel if requested.
- Attach ½" strain relief from existing machine or use a new one.
- Attach a new 90 degree 3/8" mpt compt water elbow to water inlet valve, sealing with teflon tape or pipe dope.
- Attach and clamp the drain hose to the dishwasher.
- Place product in final location.
- Connect pigtail and plug in.
- OR, if permitted by local code;
- Pull electrical supply wires through strain relief and tighten down.
- Connect the electrical supply and connection wires , Black to Black, White to White and ground the Green or Solid Copper Ground wire to the grounding screw in the junction box.
- Connect water supply using 3/8" copper tubing or where code allows, the "NDA" SS Dishwasher installations hookup kit, Stock #R335. Which consists of a 5 foot stainless steel connecting kit elbow.
- Connect the drain line to the sink drain, air gap or garbage disposal inlet.
- Attach the dishwasher to the bottom of the counter top, using flat head screws. In the case of granite or stone counter tops, attach using the floor attachment kit.
- Turn on water and electric. Check for leaks and cycle the Dishwasher.

K. Ovens and Cook Tops

- Remove item from carton.
- Attach strain relief from existing machine or use a new one.
- Pull electrical supply wires through strain relief and tighten down.
- Connect the electrical supply and connection wires , Black to Black, White to White and ground the Green or Solid Copper Ground wire to the grounding screw in the junction box.
- Place product in final location and secure.
- Turn on electric and test.

L. Micro-hoods and Vent Hoods

- Remove item from carton, attach cord restraint.
- Attach brackets to wall or cabinet.
- Attach pigtail and plug in.
- OR, if permitted by local code;
- Pull electrical supply wires through strain relief and tighten down
- Connect the electrical supply and connection wires, Black to Black, White to White and ground the Green or Solid Copper Ground wire to the grounding screw in the junction box.
- Attach vent.
- Attach item to bracket or cabinet or wall.
- Turn on electric and test.

M. Air Conditioners

- Deliver in carton and place where Customer specifies.

N. Garage Door Openers

Deliver in carton and place where Customer specifies.

O. TVs, VCRs, and Sound Systems (Stereos)

- remove shipping bolts and packing strips, attach legs, plug into outlet,
- place in location specified by Customer, and
- for TVs, connect antenna or cable lead-in or signal supply.

- During winter, advise Customer NOT to turn TV on until set reaches house temperature. This should be approximately one hour after delivery.

P. Plasma TV's

- remove shipping bolts and packing material, attach base and speakers,
- set in place
- connect speakers to monitor,
- connect monitor to tuner
- connect tuner to signal supply

**7. Shipping / Receiving Processes at Repair Units & Access Points**

a) **Load Out**

- i) Each Access Point/Repair Facility, will have "Clearly Defined & Organized Staging Areas" for drivers to deliver the product (staging area desired to be within 25ft. from dock door/driver access point). Staging area should only have those items scheduled to depart for that day.
- ii) Each Access Point / Repair Facility will provide driver access to the Staging Area(s), according to the Route Start/End time on the schedule.
- iii) Access Point associates will be available to "Check-In" driver / shipment, one hr. before / after their scheduled delivery time. (Exceptions allowed during "night deliveries") (Check in period should be 30 minutes either side of pick up/delivery.)
- iv) Access Points associates will assist the drivers, with the loading of any item greater than 50 pounds.
- v) If any items are "Palletized" it is the Shipper/Receiver's responsibility to provide a Pallet Jack to the driver.
- vi) Count pieces and match them up with the units Bill of Lading ("BOL"). Driver and store designate sign BOL and driver departs. Any BOL discrepancies need to be addressed while the driver and store designate are present.
- vii) If there is a "Seal" on the trailer, it is the receiver's responsibility to verify / break upon receipt.

b) **Receiving**

- i) Count pieces at access point and verify number of count matches what is on the BOL. If there are any discrepancies, reconcile the differences with the store associate before signing the BOL and departing the store. Driver must get signature from store associate before leaving "OR" must notify repair center, and get approval to continue on route.
- ii) Arrive at the repair facility and back into the dock. Find shipping/receiving associate and start unloading the product inside the truck. The driver and shipping/receiving associate should match up the individual stores BOL's with the pieces on the truck. Once the first store is

matched up the driver and shipping/receiving associate should proceed to the next store. This process is continued until the truck is emptied.

c) Access Points

- i) Drivers must receive a BOL or manifest (driver is not responsible for preparing BOLs or manifests for Access Points).
- ii) Product must have a repair tag attached to the product, with SR/SO (service requests or service orders) and the Repair Center's unit number on tag.
- iii) Drivers should not pack or wrap electronic product (shipper must make the effort to prevent damage). Delivery Company will be responsible for any damage that occurs; in the event they accept unwrapped product.
- iv) Merchandise will be staged & ready with paperwork. Driver will wait maximum of 15 minutes after published delivery time.
- v) All Merchandise should be properly loaded and secured. Load bars and decking should be kept on the truck at all times and secured when not in use. In the event load bars and decking are left behind, a special will be run at the expense of the Delivery Company.

Signed by duly authorized representatives of SLS and the Delivery Company.

SEARS LOGISTICS SERVICES, INC.

By: Sears Holdings Management Corporation,  
It Agent

J. Trach *st*

By: Joan Trach

Its: Vice President

HomeDeliveryLink, Inc.

R. E. Fleisher

By: ROBERT E. FLEISHER

Its: PRESIDENT

APPENDIX F  
HOME DELIVERY CARRIER AGREEMENT  
INSTALLATION OF ANTI-TIP BRACKET

ADDITIONAL DELIVERY COMPANY RESPONSIBILITIES

REQUIRED ANTI-TIP BRACKET INSTALLATION

1. For all free-standing and slide-in cooking ranges provided to Delivery Company by Sears for delivery and hook-up under the Agreement, Delivery Company will install the OEM or manufacturer-provided anti-tip or other range stability brackets in accordance with the OEM or manufacturer instructions.
2. If for any reason Delivery Company cannot complete installation of the OEM or manufacturer-provided anti-tip or other range stability bracket when performing any free-standing or slide-in cooking range hook-up, Delivery Company will not complete the hook-up, and, in the alternative, will complete the delivery as a brown box delivery, as defined in the Agreement; specifically, Delivery Carrier will not connect the range to the power supply or slide the range into place, but will leave the range in a safe place unconnected to a power supply.
3. Delivery Company will receive an additional three dollars per bracket for each properly installed anti-tip or range stability bracket.
4. Delivery Company's failure to comply with this Appendix F shall constitute a breach of the Agreement. Delivery Company also agrees to fully indemnify the Indemnified Parties under Paragraph 8 of the Agreement for failure to comply with this Appendix F and such indemnification shall not be limited by any exceptions set forth in Paragraph 8, including exceptions based on an Indemnified Party's sole negligence.
5. The Effective date of this Appendix F is July 23, 2007.
6. This Appendix F forms a part of the Home Delivery Carrier Agreement dated December 1, 2005 between Sears and Delivery Company (the "Agreement") and is subject to all of its provisions. Capitalized terms used in this Appendix F shall have the same meaning as such terms in the Agreement. In the event of any conflict between this Appendix F and any term or condition set forth in the Agreement, the terms and conditions in this Appendix F shall govern and control.

**SEARS:**

**SEARS ROEBUCK & CO., By Sears  
Holdings Management Corporation,  
its Agent**

By:

Name: Joan Trach  
Title: VP, Operations and  
Administration, Home  
Services

Dated 2007

**DELIVERY COMPANY:**

**HOME DELIVERY LINK**

By:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated 2007

EXHIBIT C  
HOME DELIVERY & SHUTTLE CARRIER AGREEMENT  
CLAIMS HANDLING PROCEDURES

1. CLAIMS or COMPLAINTS

- A. If Delivery Company or SLS receive a Customer complaint or claim (whether delivered by the Customer or SLS Client), the recipient will immediately notify the other party of the details of the complaint or claim along with a copy of the delivery manifest. If the complaint or claim alleges a wrongful act or omission of Delivery Company, regardless of when the claim arose, Delivery Company will contact the Customer to initiate resolution within one business day (24 hours) after Delivery Company is notified of the claim. If Delivery Company fails to resolve the complaint or claim within 30 days after Delivery Company receives notice, or if SLS, in its sole judgment, determines that Delivery Company has not proceeded with due diligence to resolve the claim, then SLS may attempt to do so and deduct all its reasonable costs from any monies thereafter due Delivery Company from SLS or its Clients, by use of a credit memo. For this Section, "Customer" includes the Customer or its representative, including but not limited to its attorney, insurance carrier or a government agency.
- B. If SLS notifies Delivery Company that the number of complaints or claims resulting from the Services is excessive, or that Delivery Company's disposition of complaints and claims is not timely or is otherwise unsatisfactory, then Delivery Company must within 15 days of notice from SLS, provide SLS with adequate assurance that all issues involving complaints or claims have been resolved to the satisfaction of SLS and its Clients. If Delivery Company fails to provide this adequate assurance, SLS may immediately terminate this Agreement without affecting any of SLS other rights or remedies.

2. CLAIMS PROCESS

A. Merchandise Claims:

1. Merchandise shortage/loss/theft:

Delivery Company is responsible for any shortage, loss or theft of Merchandise from the time it takes possession until it has delivered the Merchandise to its destination or returned to SLS in accordance with the shipping orders issued to Delivery Company. In the event of shortage, loss or theft of Merchandise, SLS must send Delivery Company a written claim within 15 days, with supporting evidence for the amount claimed. Delivery Company will reimburse SLS as follows: a) for new home delivery Merchandise, the claim amount justified, based on SLS' landed cost (invoice price plus transportation charges) and b) for carry in shuttle Merchandise, the actual value of each shipment. If Delivery Company does not (a) promptly reimburse SLS or (b) provide supporting evidence to SLS' satisfaction to invalidate the claim within 15 days after receipt of the claim, SLS may deduct the claimed amount from any sums thereafter due the Delivery Company from SLS through the use of a credit memo.

2. Merchandise damage:

Delivery Company must accept or deny responsibility for damage to Merchandise within two (2) business days, excluding the day of the attempted delivery. Damage to Merchandise is defined as any indication that the Merchandise does not operate in its normally intended use or does not appear as a new, first-class item of Merchandise. Merchandise damage includes, but is not limited to, appearance blemishes such as scratches, abrasions, gouges, dents, mars, cracks, breaks, and bends.

When Delivery Company receives Merchandise for delivery at the point of loading onto Delivery Company's trucks, Delivery Company shall open and inspect Merchandise if directed by SLS. In such situation, Delivery Company's opportunity to inspect upon receipt is its only opportunity

to document any damage to Merchandise existing prior to coming into Delivery Company's possession, and Delivery Company must document all damage observed during inspection in a written notice to be delivered to SLS within 15 minutes after inspection. If Delivery Company fails to do so, Delivery Company will be conclusively presumed to have accepted the Merchandise in a condition of no damage. If Delivery Company is not directed to open and inspect the Merchandise, then any damage discovered during the delivery process will be deemed concealed damage and Delivery Company will not be responsible; unless it is determined that the damage was attributable to Delivery Company's actions (i.e., knife cuts on the Merchandise, carton integrity after Delivery Company takes possession), in which case the Delivery Company shall be held liable.

However, open and inspect must be conducted on all Merchandise that demonstrates any carton integrity issues.

3. Merchandise Refused by Customer

- a) Upon completion of a delivery run, all undelivered and returned Merchandise will be off-loaded from delivery trucks and accounted for by matching with the appropriate shipping documents.
- b) The reason that Merchandise was undelivered or returned must be noted on the load sheet and the damage return tag.
- c) SLS and the Delivery Company's representative will inspect damaged Merchandise.
- d) If both representatives agree that Delivery Company does not have liability, the damaged Merchandise will be handled by SLS.
- e) If both representatives agree that Delivery Company is liable for the damage, both representatives will sign the claim sheet and both representatives will list the extent of damage. Delivery Company will note on the claim sheet that it "accepts responsibility for the Merchandise damage."
- f) If the representatives disagree on who is responsible for damage, the Delivery Company will place the Merchandise in a designated claims area for joint inspection by SLS and Delivery Company management. If the Merchandise leaves the building prior to inspection, the Delivery Company will not be held responsible.
- g) If Delivery Company transports any Merchandise not properly protected or secured, it will be presumed that any damage not documented prior to that shipment is the responsibility of the Delivery Company.
- h) The following morning, SLS and Delivery Company management will inspect the Merchandise and determine liability for the damage. If Delivery Company is determined to be responsible, a claim will be agreed on at this time. Delivery Company will assume responsibility for damages by noting "approved" on the load sheet and signing the form. After this meeting has occurred, the Merchandise may leave the building.
- i) On return of multi-piece orders, one claim form will be drawn up for each piece of Merchandise indicating the extent of damage to that piece of Merchandise. One delivery charge will also be filed on this form.
- j) Approved claims not paid by Delivery Company within seven (7) days will be deducted from payments to Delivery Company for invoices received for the next billing period by the use of a credit memo.

4. Merchandise Returned or Exchanged by Customer

- a) If returned or exchanged Merchandise is brought back to the MDO and damage was caused by Delivery Company, then Delivery Company will be liable for the damage. However, Delivery Company will not be liable for damage if Delivery Company was instructed to deliver Merchandise shown on an inspection notice in a damaged condition (e.g., surplus or fill-from-floor goods), and the load sheet was signed by the SLS MDO manager and Delivery Company's Delivery Team manager before delivery. Delivery Company driver will indicate on the load sheet the condition of Merchandise at the time of pick-up.
- b) If the condition on the load sheet is described as "acceptable" and additional damage existed at the time of unloading, Delivery Company will be liable for the damage.
- c) If the Delivery Company driver notes the Merchandise damage on the load sheet at the time of pickup, with the Customer's signature indicating approval of the driver's note, and the Merchandise is returned in the same condition, then Delivery Company will not be responsible for the damage. But the Delivery Company will be responsible for any additional damage not shown on the load sheet, if the Merchandise is found not properly protected (e.g., secured, padded) upon return arrival at the MDO.

5. Allowance Claims to Customer

SLS or its Clients may file claims with Delivery Company for allowances issued to Customers in lieu of damaged Merchandise being returned. Delivery Company agrees to reimburse 100 percent of the amount of the allowance issued to Customers in lieu of damaged Merchandise being returned, conditioned on the following:

- i. SLS provides the allowance within 7 days of the Merchandise delivery; and
- ii. Any requests for reimbursement of allowances given after 7 days after delivery will be reviewed by both SLS and Delivery Company for determination of liability.

B. Damage to Customer's Property Home or Property (excluding Delivered Merchandise):

1. If Delivery Company (or any of its Delivery Teams, whether employee or subcontracted) causes damage to a Customer's property in connection with performing the Services (whether making Merchandise deliveries, pickups, or otherwise), it will promptly resolve the claim.
2. When Delivery Company learns of a Customer property damage claim, it will promptly respond to the Customer by contacting the Customer ASAP but no later than one business day (24 hours) after receiving notice, investigate the claim, and fairly resolve it. If an insurance adjuster is used to investigate and resolve the claim on Delivery Company's behalf, Delivery Company will use all reasonable efforts to cause the insurance adjuster to resolve the claim fairly and promptly. Delivery Company also agrees to be kept updated on all such claims.
3. If the Delivery Company chooses to resolve a claim by repairing the damage rather than reaching a monetary settlement, it will use a reputable contractor and will avoid any contractors who receive repeated Customer complaints from their work. On all monetary settlements over \$1,000, Delivery Company shall obtain a release listing "Sears Holdings Corporation and its subsidiaries and affiliate companies" as an additional released party.
4. The Delivery Company will use all reasonable efforts to resolve each claim within 30 days of when it receives notice of it, and will continue to use all reasonable efforts to resolve any claims open for more than 30 days. SLS or its Client may, after notifying Delivery Company, attempt to settle any claim that remains unresolved for more than 30 days after notice, and Delivery

Company will reimburse SLS and its Client their reasonable costs of doing so, including but not limited to the costs of negotiating and the settlement amount. SLS or its Client's settlement efforts will not be construed as admissions of liability for any claim. Neither SLS nor its Client will have any liability for the claim due to their efforts to settle it.

5. The Delivery Company will report to the SLS MDO Manager on a weekly basis the status of all unresolved claims, including those over 30 days old. MDO manager and Delivery Company manager are required to meet once per week to review claims. Delivery company shall provide a weekly report that contains the following information: (i) date the claim was received, (ii) date of delivery, (iii) the delivery team, (iv) the Merchandise delivered, (v) description of the damage, (vi) disposition of the claim (i.e. last contact with customer, estimates received, etc.), (vii) how the claim was settled and (viii) the date the claim was closed.

**C. Customer Inconvenience Claims:**

If SLS receives a complaint from a customer for inconvenience due to the fault of the delivery company or delivery team, SLS may resolve this complaint by reaching a monetary settlement (or gift card) with the customer. SLS must send the Delivery Company a written claim with supporting evidence for the claim, within one business day (24 hours). Inconvenience claims for being "out of delivery window"; will not be filed if delivery team is complying with all the responsibilities in Exhibit A. Inconvenience claims will normally be the amount the customer paid for delivery. Claims in excess of that amount will be reviewed by both SLS and Delivery Company for determination of reasonableness.

**3. DAMAGED MERCHANDISE CLAIMS CALCULATIONS**

**A. Calculation of reimbursement for claims on damaged Merchandise shall be calculated as follows:**

1. SLS, or its Clients, in their sole discretion, will determine if damaged Merchandise is to be repaired or liquidated.
2. If SLS, or its Clients, determine(s) that the Merchandise will be repaired, the charge to Delivery Company will be hourly labor plus benefits to repair the damage.
3. If SLS, or its Clients, determine(s) the Merchandise will be liquidated, the charge to Delivery Company will be as follows:

1. For Merchandise delivered in the carton, the lesser of

- (a) 50 percent of SLS Client's original net landed cost for the Merchandise or
- (b) The cost to put the Merchandise in saleable condition.

This charge will apply only when the Delivery Company demonstrates that the Merchandise was delivered in its original carton, and was delivered and returned properly secured and padded.

2. For all other Merchandise, the lesser of 100 percent of

- (a) SLS Client's original net landed cost for the Merchandise or
- (b) The cost to put the Merchandise in saleable condition, plus Delivery Company's per-stop cost charge, based on the prior month's deliveries from that MDO.

4. If SLS, or its Clients, determine(s) that the Merchandise is beyond repair and cannot be sold, then the claim will be stamped "junked" and the Delivery Company will be charged the full cost of the Merchandise plus the original delivery charge.

Signed by duly authorized representatives of SLS and the Delivery Company.

SEARS LOGISTICS SERVICES, INC.

By: Sears Holdings Management Corporation,  
Its Agent

J. Trach

By: Joan Trach

Its: Vice President

HomeDeliveryLink, Inc.

R. E. Fleisher

By: ROBERT E. FLEISHER

Its: PRESIDENT